United Nations CCPR/C/119/2

International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee

I. Introduction

1. The Human Rights Committee, in accordance with article 40 (4) of the International Covenant on Civil and Political Rights, may prepare follow-up reports based on the various articles and provisions of the Covenant with a view to assisting States parties in fulfilling their reporting obligations. The present report is prepared pursuant to that article.

2. The report sets out the information received by the Special Rapporteur for follow-up to concluding observations, and the Committee's evaluations and the decisions that it adopted during its 119th session. All the available information concerning the follow-up procedure used by the Committee since its 105th session, held in July 2012, is outlined in a table available from http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_UCS_119_25801_E.pdf.

New assessment of replies[1]

A	**Reply/action largely satisfactory**: The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.
B	**Reply/action partially satisfactory**: The State party has taken steps towards the implementation of the recommendation, but additional information or action remains necessary.
C	**Reply/action not satisfactory**: A response has been received, but action taken or information provided is not relevant or does not implement the recommendation.
D	**No cooperation with the Committee**: No follow-up report has been received after the reminder(s).
E	**Information or measures taken are contrary to or reflect rejection of the recommendation.**

[1] Adopted by the Committee at its 118th session (17 October-4 November 2017). The full assessment is contained in CCPR/C/119/3.

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II. Assessment of follow-up information

List of States parties evaluated with a [D] grade for failure to cooperate with the Committee within the follow-up to concluding observations procedure (as at March 2017)[2]

	State party	*Concluding observations*	*Due date of follow-up report*	*Reminders*
1.	Sierra Leone	CCPR/C/SLE/CO/1 (25 March 2014)	25 March 2015	Reminder 9 June 2015 Reminder 19 November 2015
2.	Chad	CCPR/C/TCD/CO/2 (26 March 2014)	26 March 2015	Reminder 19 November 2015 Reminder 19 April 2016
3.	Sudan	CCPR/C/SDN/CO/4 (22 July 2014)	22 July 2015	Reminder 1 October 2015 Reminder 16 August 2016
4.	Indonesia[3]	CCPR/C/IDN/CO/1 (24 July 2013)	(2nd) 1 May 2015	Reminder 1 October 2015 Reminder 16 August 2016

111th session (July 2014)

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Concluding observations:	CCPR/C/CHL/CO/6, 22 July 2014
Follow-up paragraphs:	7, 15 and 19
First reply:	5 January 2016
Committee's evaluation:	Additional information required on paragraphs 7 **[B]**, 15 **[B]** **[B]** and 19 **[B]** **[C]**
Non-governmental organizations:	Corporación Humanas and others (4 September 2015)

Paragraph 7: The State party should amend the Counter-Terrorism Act and adopt a clear and precise definition of terrorism offences in order to ensure that the counter-terrorism efforts of law enforcement personnel do not target specific individuals on account of their ethnic origin or any other social or cultural factors. It should, furthermore, ensure that the procedural guarantees contained in article 14 of the Covenant are observed. The Committee urges the State party to refrain from applying the Counter-Terrorism Act against the Mapuches.

Summary of State party's reply

The State party refers to the competence of the Office of the Attorney General and of courts to classify acts as terrorism once the criteria of this criminal offence are met, adding that any measure that might lead to a deprivation, restriction or disruption of the exercise of the rights of the accused requires prior judicial authorization.

The State party acknowledges that the selectivity with which the Counter-Terrorism Act (Act No. 18.314) has been enforced has undermined its legitimacy. The disproportionate increase in standard sentences for certain offences committed in the context of a social conflict has become clearly inconsistent with the principle of proportionality. In addition, under the legislation in question, acts that involve damage to material goods only can be classified as terrorist acts, contrary to international standards. Therefore, the current may be described as social conflict or in relation to members of indigenous communities

[2] The follow-up procedure has been discontinued for these States parties. The information on the implementation of all the recommendations in the concluding observations adopted in respect of these States, including those recommendations selected for the follow-up procedure, should be provided in the context of their next periodic report.

[3] Committee's evaluation of the first follow-up report (see CCPR/C/113/2): paragraphs 8 **[B2]**|**C1]**|**C1]**, 10 **[E]**,12 **[B1]** and 25 **[C1]**. Second follow-up reply not provided: Committee's evaluation: **[D]**.

making social demands. Only 10 per cent of the accused under Act No. 18.314 were convicted, which reflects a low rate of effectiveness of the law. Furthermore, since 11 March 2014 there have been no such convictions or criminal proceedings against persons of the Mapuche ethnicity.

The Counter-Terrorism Act has been the subject of numerous amendments, but those reforms have not been sufficient to bring domestic legislation fully into line with international human rights law. For this reason, in May 2014, a committee of experts was established to provide specific recommendations; the committee concluded its work on 4 November 2014 with the preparation of a bill establishing terrorist acts and the penalties related thereto and amending the Criminal Code and the Code of Criminal Procedure. The bill, which was pending its first reading before the Senate, is aimed at updating and refining the provisions that characterize terrorist acts, including a clear definition that allows for appropriate punishment. The bill regulates and expands the scope of action by the Office of the Attorney General in the investigation of such offences; ensures judicial oversight of those measures that could infringe on the rights and freedoms of persons; includes rules on international cooperation and assistance; and establishes the exceptional nature of the measure of protected witnesses to be applied at the investigation stage based only on specific and well-justified grounds, for a limited period of time and subject to judicial review. The bill also provides that the defence shall have access to all the evidence submitted by the Office of the Attorney General in the indictment, including the identity of protected witnesses.

Information from non-governmental organizations

A draft law was submitted in November 2014, but the proposed definition of terrorism is very general and susceptible to arbitrary application owing, in particular, to the use of broad terms, such as "disturbance of public order". The draft law is still under consideration. It maintains high penalties for terrorism offences and allows inordinately long periods of pretrial detention. The draft law also allows defence lawyers to know the identity of protected witnesses.

Concerning the Mapuches, the non-governmental organizations (NGOs) report that the law was invoked only in one case, in connection with the attack on a police station in Temuco in December 2014, but no one appears to have been prosecuted.

Committee's evaluation

[B]: The Committee notes the State party's acknowledgement of infirmities in the current Counter-Terrorism Act, the information provided on the counter-terrorism bill by both the State party and the NGOs, and the information on application of the current law against the Mapuche community. It requires additional information on the content of the bill and the progress of its adoption, including information on: (a) whether the new definition of terrorism offences and other key concepts, such as "seriously disturb public order", comply with the principles of legal certainty and predictability and with international standards on the definition of terrorism; (b) whether there are exceptions to the disclosure of the identity of protected witnesses to the defence to ensure the safety of such witnesses while also respecting the defendant's right fair trial; (c) measures taken to ensure that persons charged with terrorism offences are afforded all procedural guarantees under article 14 of the Covenant; and (d) the duration of pretrial detention allowed and sentences imposed in terrorism cases under the bill. The Committee also requires updated information on the application of the Counter-Terrorism Act (Act No. 18.314) against persons exercising their freedom of expression and peaceful assembly, and against the Mapuche community.

Paragraph 15: The State party should establish exceptions to the general prohibition of abortion to take account of therapeutic abortion and cases where a pregnancy is the result of rape or incest. The State party should ensure that all women and adolescents have access to reproductive health services in all parts of the country. The State party should, furthermore, increase the number of sexual and

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reproductive health education and awareness-raising programmes, particularly for adolescents, and make sure that they are implemented.

Summary of State party's reply

On 31 January 2015, a bill decriminalizing voluntary termination of pregnancy in three specific cases was submitted to Congress (Bulletin No. 9895-11). The three exceptions to the general prohibition of abortion are: (a) when a woman's life is at risk or will be in the future, and the termination of pregnancy eliminates that risk; (b) when the embryo or foetus suffers from a congenital or genetic structural alteration incompatible with extra-uterine life; and (c) when a pregnancy is the result of rape, provided that the woman is not more than 12 weeks pregnant, or 14 weeks in the case of a 14-year-old girl. The bill provides that any woman wishing to voluntarily terminate her pregnancy must make known her wishes expressly, in advance and in writing. The State party elaborates on the issue of consent in the case of a girl under 14 years and between 14 and 18 years of age.

The bill contains a number of provisions relating to the procedure for terminating a pregnancy and to conscientious objection by doctors. It also sets out the obligation of health-care providers to give objective information in writing to the woman regarding the medical procedure and alternatives to termination of pregnancy, including the social and economic support programmes available. The bill provides for amendments to be made to the Criminal Code and to the Code of Criminal Procedure to ensure consistency and to guarantee that the duty of confidentiality prevails over the duty of reporting in cases of legal termination of pregnancy by a pregnant woman or by a third party with her consent. The in-depth consideration of the bill began on 30 September 2015 and it was hoped that the bill would be submitted for consideration by the Chamber of Deputies (in plenary) by the end of 2016.

Sexual and reproductive health counselling facilities have facilitated access to sexual and reproductive health services and related information (about 445,000 counselling sessions were given in 2014, compared with about 440,000 in 2012). In 2014, the human papilloma virus vaccine was administered free of charge to over 96,000 girls in schools throughout the country. The National Service for Women has adopted a series of measures aimed at education and awareness-raising on sexual and reproductive health, particularly in the adolescent population, such as a support programme for teenage mothers designed to help them and pregnant girls achieve social integration by developing a life plan, and the Healthy Sexuality and Reproductive Life Programme developed in 2014 to promote sexual and reproductive rights of girls and boys between the ages of 14 and 19 from 32 towns (with a goal to expand the implementation to 60 towns in 2016, 90 towns in 2017 and 120 towns in 2018). In addition, the Intersectoral Round Table on Teenage Pregnancy was established to help retaining pregnant girls in school and help teenage girls and boys re-enrol in school. Furthermore, a pilot project to prevent repeat teenage pregnancies has been conducted jointly by the National Service for Women and the Ministry of Health and includes home visits to provide support and guidance, and input for the development of a protocol for action.

Information from non-governmental organizations

NGOs confirm the information on the draft law regulating the decriminalization of abortion in three specific circumstances and note that, contrary to comparable legislation and the long health tradition in the country, the current draft law does not contemplate the risk to a woman's health as one of the exceptions but only the risk to life. Civil society organizations contributed to the debate on the draft law. An important group of parliamentarians from the ruling coalition expressed their rejection of some significant aspects of the draft law, particularly the lack of support for rape as grounds for abortion and the requirement to incorporate the rape complaint as a prerequisite for access to an abortion.

Public policies concerning the sexual and reproductive health of women focus on reproduction rather than on a satisfactory sexual life without any risk. In total,

73,756 people are on waiting lists for gynaecologist or obstetrician consultations; there are also waiting lists for specific medical procedures. Gender and class inequalities are compounded by misinformation and poor access to integrated sexual and reproductive health care.

There is no State policy on sexual and reproductive health education. Although Law 20.418 states that sexual education programmes should be implemented in educational establishments, in practice these are only guidelines. The Ministry of Education developed a training guide on sexuality, sensitivity/emotions and gender, but its application is left to the discretion of each educational institution that will provide guidelines on how to tackle the topic in their establishments.

Committee's evaluation

(a) [B]: The Committee takes note of the bill decriminalizing voluntary termination of pregnancy when a woman's life is at risk and in cases of fatal foetal abnormality or rape (the latter subject to gestational age restrictions). The Committee remains concerned regarding the absence of exceptions to the prohibition on voluntary termination of pregnancy for, inter alia, pregnancy resulting from incest, therapeutic abortion, including the woman's health, and to avoid prompting women to seek backstreet abortions that endanger their lives and health, and requests information regarding the State party's plans to include such exceptions. The Committee requires additional information on the status and content of the bill, including any amendments to the original bill submitted to Congress on 31 January 2015, the rationale for the restrictions on abortion in case of pregnancy as a result of rape based on gestational age; the nature of the provisions for conscientious objection and any reporting obligations and any burdensome procedures for securing a voluntary termination of pregnancy. The Committee reiterates its recommendation.

(b) [B]: The Committee notes the information provided by the State party on sexual and reproductive health services, including the increase in the number of counselling sessions in 2014 and the measures taken by the National Service for Women with regard to education and awareness-raising programmes. It also notes the reported long waiting lists for gynaecologist or obstetrician consultations and specific medical procedures and disparities in access to such services, as well as the reported absence of a State policy on sexual and reproductive health education. The Committee therefore requests information on: measures taken since the concluding observations were adopted to ensure that all women and adolescents have effective access to reproductive health services in all parts of the country; whether the Healthy Sexuality and Reproductive Life Programme will have been expanded to 60 towns in 2016 and 90 towns in 2017, as planned, and the outcome of its implementation; the progress achieved by the Intersectoral Round Table on Teenage Pregnancy and the outcome of the pilot project aimed at preventing repeat teenage pregnancies; and whether sexual and reproductive health education is a formal part of the school curriculum.

Paragraph 19: The State party should redouble its efforts to prevent and eliminate torture and ill-treatment by, inter alia, strengthening human rights training for members of the security forces and revising operating procedures for law enforcement personnel in the light of the relevant international standards. The State party should, furthermore, ensure that all allegations of torture or ill-treatment are investigated promptly, thoroughly and independently, that perpetrators are brought to justice and that victims receive appropriate reparation, including health and rehabilitation services.

Summary of State party's reply

Since 2013, the prevention of torture and other inhuman, cruel and degrading treatment has been included in Carabineros training programmes, and a series of human rights training measures were implemented for its officers. Specific training modules are being

developed to support face-to-face teaching and distance learning on the protection of vulnerable groups and on the prohibition of torture.

The investigative police currently use 63 operating procedures, or protocols, that standardize investigative processes and establish, clearly and specifically, the duties and responsibilities of the investigating officer. The review of the use of the protocols is conducted by the Department for Oversight of Police Procedures (No. VIII) of the Inspectorate General. In 2012, the Carabineros revised the Special Forces protocols to align them with national and international human rights standards and published the new protocols in 2014. The 30 protocols describe different modes of police intervention to maintain public order during demonstrations and draw on established principles of international human rights law relating to this issue. The protocols establish the basic preconditions for the use of force and firearms, officers' duty to limit the use of coercive means to the minimum necessary and the application of the principles of legality, necessity and proportionality, respect for human dignity and the right to demonstrate freely and peacefully. Special protocols have been established for juvenile offenders, including for children belonging to indigenous ethnic groups, and elaborates on their content. With regard to the deprivation of liberty, Protocol No. 4.5 expressly prohibits torture and inhuman, cruel and degrading treatment; and provides for immediate reporting of such acts to administrative and criminal justice authorities and for thorough, prompt and impartial investigations. The obligation to detect and investigate torture and other inhuman, cruel and degrading treatment was strengthened by General Order No. 2297 of 14 August 2014, updating the "[i]ntervention protocols for the maintenance of public order".

With regard to the measures taken to investigate allegations of violence and abuse by the police during public demonstrations in 2011 and 2012, the Carabineros and the investigative police have initiated investigations and administrative inquiries with a view to determining any administrative or disciplinary responsibility, and have penalized those found guilty, as appropriate; where necessary, they have initiated the standard procedures before courts. Since March 2014, the Carabineros legal administrative investigation offices report to the Carabineros court officers. The State party further elaborates on the investigation of allegations of misconduct of investigative police officers generally, including referral to the Office of the Attorney General, noting that these violations are considered matters within the competence of the ordinary courts rather than the military courts, as established in the case law of the Supreme Court. It notes that criminal proceedings have been initiated to investigate abuses or violence by investigative police against members of indigenous communities, especially the Mapuche. The investigative police have special police investigator brigades in Concepción and Temuco, areas where police operations mainly take place in Mapuche communities.

Information from non-governmental organizations

In 2014, Carabineros announced that its curriculum had dedicated more teaching hours (up to 72 hours) on human rights, including more specific subjects such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, the sessions on human rights constitute about 6 per cent of teaching hours, and do not include references to other instruments, such as the Covenant.

Operating protocols recognize the right to demonstrate and reinforce the requirement that force must be used in accordance with the principles of legality, necessity and proportionality, and that the criminal actions to be repressed are of individual nature rather than collective. However, concerns remain in particular regarding the use of dissuasive means such as water cannons and tear gas that are employed without distinction between those who provoke incidents and those who demonstrate peacefully, and the lack of a proportionate and targeted use of such means.

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NGOs note that the offense of torture has not yet been criminalized and the only existing criminal provision is that of "unlawful coercion", which has a more limited reach. As a positive development, criminal proceedings were initiated in October 2015 against four

Carabineros for acts amounting to torture committed against demonstrators in the city of Freirina in 2012.

Committee's evaluation

[B]: The Committee notes the information provided on the human rights training for Carabineros officers and on the operating protocols in force. However, it requires additional information on: (a) the number of training hours dedicated to prevention of torture and ill-treatment in the curriculum for Carabineros, the content of such training and the number of persons trained since the adoption of the concluding observations; (b) the development of specific training modules for face-to-face teaching and distance learning regarding prevention of torture and ill-treatment; (c) instances of non-compliance with relevant operating protocols in the context of police interventions during demonstrations since the adoption of the concluding observations, including with regard to the use of water cannons and tear gas and sanctioning of such conduct.

[C]: The Committee notes the general information provided by the State party but regrets the lack of concrete information on measures taken since the adoption of the concluding observations regarding the number of investigations, prosecutions and convictions regarding torture and ill-treatment, specific punishments imposed and reparations provided to victims, including health and rehabilitation services. The Committee reiterates its recommendation.

Recommended action: A letter should be sent reflecting the evaluation of the Committee.

Next periodic report: 31 July 2019

Georgia

Concluding observations:	CCPR/C/GEO/CO/4, 23 July 2014
Follow-up paragraphs:	13 and 14
First reply:	CCPR/C/GEO/CO/4/Add.1, 9 July 2015
Committee's evaluation (see CCPR/C/115/2):	Additional information required on paragraphs 13 **[B1] [B2]** and 14 **[B2]**
Second reply:	1 April 2016
Committee's evaluation:	Additional information required on paragraphs 13 **[B] [A]] C] [B]** and 14 **[B]**

Paragraph 13: Administrative detention

The State party should, as a matter of urgency, reform its system of administrative detention in order to ensure its full compliance with articles 9 and 14 of the Covenant.

Follow-up question (see CCPR/C/115/2)

[B1]: The Committee welcomes the amendments adopted by Parliament in August 2014, which set the maximum period of administrative custody for all violations entailing administrative detention at 15 days and provided for various procedural protections. In the light of general comment No. 35 (2014) on liberty and security of person (article 9 of the International Covenant on Civil and Political Rights), the State party should provide

additional information on: (a) measures in place to guarantee the use of alternatives to administrative detention; and (b) standards and procedures in place for imposing and reviewing administrative detention, including information on the authority taking these decisions.

[B2]: The Committee requires information on the rationale behind the initiative to place administrative offences under the Criminal Code as minor criminal violations or crimes. In particular, additional information is required on the types of offences that are suggested to be placed under the Criminal Code and the compatibility with articles 9 and 14 of the Covenant. The Committee also requests further information on whether and to what extent administrative detainees are being held in temporary detention facilities managed by the Ministry of Internal Affairs, and on the steps taken to reduce this practice.

State party's reply

(a) Alternatives to administrative detention are envisaged by a number of articles of the Code of Administrative Offences. In addition to a fine, which is a more common alternative measure, an offender may be subject to correctional services for up to 3 months.

(b) Administrative detention is imposed by a judge of district (city) court, taking into account the circumstances of the case, the impact of the crime, the personality and financial situation of an offender and the aggravating and mitigating factors. The decision may be appealed in the Court of Appeals within 48 hours.

Administrative detainees are held exclusively in temporary detention isolators under the Ministry of Internal Affairs for a temporary placement, and are subject to detailed medical examinations. The Temporary Detention Department regularly monitors the municipal and regional temporary detention isolators. The Monitoring Division established within the Department carries out unexpected visits to all temporary detention isolators, and the Public Defender of Georgia is also given full and unimpeded access.

Committee's evaluation

(a) [B]: The Committee notes the alternative measures to administrative detention, but requires information on measures in place to guarantee their implementation in practice, including relevant statistics on their use since the adoption of the amendments in August 2014.

(b) [A]: The Committee considers the State party's response largely satisfactory.

[C]: The Committee regrets the absence of information on the rationale behind the initiative to place administrative offences under the Criminal Code as minor criminal violations or crimes. The Committee reiterates its request for information.

[B]: The Committee notes the information regarding the holding of administrative detainees in temporary detention isolators under the Ministry of Internal Affairs and monitoring of such facilities, and requires clarification on whether such facilities are suitable for long-term detention; whether administrative detainees serve their full term of imprisonment in such facilities and whether they are segregated from other categories of persons deprived of their liberty.

Paragraph 14: Jury trials

The State party should, as a matter of urgency, follow up on its intention to reform the current jury trial system with a view to ensuring its compatibility with the fair trial guarantees enshrined in article 14 of the Covenant.

Follow-up question (see CCPR/C/115/2)

[B2]: The Committee notes the draft law developed by the Ministry of Justice to reform the jury trial system. The State party should submit additional information on: (a) whether

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the draft is in full compliance with article 14 of the Covenant; and (b) the progress and implementation of the draft.

Summary of State party's reply

(a) The State party reiterates (see CCPR/C/GEO/CO/4/Add.1, para. 11) that the Ministry of Justice submitted a draft law on the jury trial system and elaborates on the research that formed the basis for its drafting. The draft amendments are fully compatible with article 14 of the Covenant and envisage the improvement of jury selection process; reaffirm the organization and efficiency of jury trial system and provide for jurors to fully understand their responsibility and the essence of the charge. According to the amendments, jury trials will operate in predefined territorial units; the selection process of jurors will be finalized in a reasonable time frame; cases of incompatibility of jurors will be redefined; additional guarantees will be provided to ensure impartiality and safety of jurors; the rules regulating the recusals of and voting by the jurors will be amended; the verdict forms and questions to be answered by the jurors to produce well-reasoned and grounded decisions will be prescribed and, finally, changes will be made to the rules regulating appellate revision of jury trial decisions.

(b) The draft amendments will be submitted to the Parliament for adoption in 2016.

Committee's evaluation

[B]: The Committee takes note of the draft law on jury trial system submitted to the Parliament and requires information regarding its provisions for appeal of jury verdicts. The Committee also requires updates on any relevant developments concerning the draft law, including the progress of its adoption and whether it complies fully with article 14 of the Covenant.

Recommended action: A letter should be sent reflecting the evaluation of the Committee.

Next periodic report: 31 July 2019

Ireland

Concluding observations:	CCPR/C/IRL/CO/4, 23 July 2014
Follow-up paragraphs:	10, 11 and 15
First reply:	20 July 2015
Committee's evaluation (see CCPR/C/116/2):	Additional information required on paragraphs 10 **[B2]** **[C2]** **[B2]**, 11 **[C1]** **[C1]** **[C2]** and 15 **[B1]** **[B1]** **[C1]** **[B2]**.
Second reply:	13 June 2016
Committee's evaluation:	Additional information required on paragraphs 10 **[B]** **[C]** **[B]**, 11 **[C]** **[A]** **[B]** **[C]** and 15 **[B]** **[B]** **[C]** **[B]**

Paragraph 10: Institutional abuse of women and children

The State party should conduct prompt, independent and thorough investigations into all allegations of abuse in Magdalene laundries, children's institutions and mother and baby homes, prosecute and punish the perpetrators with penalties commensurate with the gravity of the offence, and ensure that all victims obtain an effective remedy, including appropriate compensation, restitution, rehabilitation and measures of satisfaction.

Ireland

Follow-up question (see CCPR/C/116/2)

[B2]: With respect to investigations into all allegations of human rights violations, the Committee welcomes the establishment of the commission of investigation into mother and baby homes and certain related matters and requests that the State party provide information on the progress of the investigation to the Committee. However, the Committee regrets that such a statutory inquiry has not been established to investigate all allegations of abuse in Magdalene laundries and children's institutions and reiterates its recommendation that the State party conduct an independent and thorough investigation.

[C2]: The State party has not provided new information regarding prosecutions and punishment of perpetrators. The Committee reiterates its recommendation that the State party prosecute and punish perpetrators with penalties commensurate with the gravity of the offence.

[B2]: The Committee welcomes the compensation schemes in place for victims who suffered in Magdalene laundries and children's institutions. However, additional information is required on:

(a) Access to the compensation schemes for victims living abroad;

(b) The requirement that qualifying Magdalene survivors must waive any right of action against the State;

(c) The situation of victims who were not formally admitted to the Magdalene laundries but were nonetheless forced to work there, including with regard to access to the redress scheme;

(d) Women still living in the care of the religious orders responsible for the laundries and their rights to advocacy services under legislation or as part of the redress scheme.

The Committee recommends that the State party ensure that victims receive the full range of restitution, rehabilitation and measures of satisfaction to which they are entitled, in accordance with the Committee's recommendation. The Committee requests an update regarding redress for the victims of mother and baby homes.

Summary of State party's reply

Investigation into mother and baby homes

The State party repeats information on the commission of investigation into mother and baby homes provided in its first follow-up reply (pp. 5-6). It notes that matters such as the precise timing and approach to investigations rest with the commission and it would not be appropriate for the Government to comment on the ongoing investigation. The State party also repeats information provided in its first follow-up reply that the commission must first be allowed the opportunity to establish the facts before considering the issue of redress (p. 6).

Investigation of allegations of abuse in the Magdalene laundries

The State party reiterates (see first follow-up reply, p. 3) that it does not propose to set up a specific Magdalene inquiry or investigation. It further clarifies that if a woman considers she has been a victim of criminal behaviour she should report it and it will be investigated. There is no statute of limitations for indictable criminal offences.

In the past five years, two allegations of a serious offence in Magdalene institutions have been reported; both related to acts by people from outside the institutions concerned, and in both cases the victims declined to make a criminal complaint, despite being invited to do so.

Ireland

Compensation schemes for victims of Magdalene laundries

(a) In total, 807 applications have been received and 626 applicants (including 126 from the United Kingdom of Great Britain and Northern Ireland, 8 from the United States of (America, 2 from Australia, 1 from Cyprus and 1 from Switzerland) have received their lump sum payments at a cost of over €23 million. The State party repeats information from its first follow-up reply on the entitlement of each woman and on legislation introduced to ensure access to a range of primary and community health services free of charge (p. 3), adding that this extends to women who are currently outside of Ireland if they visit or return to the country. It also repeats information regarding the examination of practical arrangements to be put in place for participants of the Magdalene laundries Restorative Justice Scheme living abroad (pp. 3-4).

(b) Justice Quirke recommended that, as a precondition of receiving benefits under the Scheme, the women concerned should sign a waiver not to take proceedings against the State and that, before signing, they are strongly advised to take independent legal advice, facilitated by a payment of €500 plus tax as a State contribution to legal advice costs. However, the signing of such a waiver does not preclude the women from making a complaint if they believe they were the victim of a criminal offence, nor does it preclude women from pursuing a civil action against the institutions concerned or any individuals.

(c) The condition that the women must have been admitted to and worked in a relevant institution was included as part of the ex gratia scheme in order to exclude persons who were paid employees. The scheme is primarily aimed at Magdalene institutions where women admitted were expected to work and the main type of work was in the laundry. The terms of reference for Justice Quirke address the issue of compensation of women for having performed work without pay, and he provides for the payment of amounts of money to reflect the work undertaken by the women; however, the amounts are purely notional and are not intended to be an accurate reflection of the value of the work done. The scheme is not intended to cover laundries generally. There are also instances where other institutions on the same campus did work in the laundries of the Magdalene institution and have been covered under a different scheme, the Residential Institutions Redress Scheme.

(d) Justice Quirke makes a very clear distinction between what is required for most women and what is required for those lacking full mental capacity, including those women who are in an institutional setting. Women who worked in the Magdalene laundries are already covered under the Nursing Home Support Scheme Act 2009, which makes provision for persons to act as care representatives in respect of any person applying for support under that Act. A personal advocate has very limited powers with regard to a person who lacks capacity. The Assisted Decision-Making (Capacity) Act 2015 was planned to come into force in the second half of 2016, and would provide for a range of options for representatives of women who worked in Magdalene laundries and have capacity issues. Officials in the Department of Justice and Equality ensure that applicants do have the necessary capacity to understand the scheme and sign the relevant legal documentation, and a medical assessment is sought if there is indication of capacity issues. With regard to women who do not lack capacity, nominated contact persons in the relevant government departments assist and advise the women, and grants have been provided to the Irish Women Survivors Support Network to provide advice and support to the women who are residing in the United Kingdom.

Committee's evaluation

[B]: The Committee notes that no additional information was provided on the progress of the investigation by the commission of investigation into mother and baby homes or on redress for victims. It therefore reiterates its request and requires information on the progress of the investigation, on a possible timeline for its completion and on any proposed forms of redress to victims. The Committee once again regrets that no specific

Magdalene inquiry or investigation is envisaged and reiterates its recommendation that the State party conduct an independent and thorough investigation.

[C]: The State party has not provided information regarding prosecutions and punishment of perpetrators, and the Committee reiterates once again its recommendation.

(a), (b), (c), (d) [B]: The Committee welcomes the lump sum payments made to applicants under the redress scheme for victims of Magdalene laundries. It notes however that the practical arrangements for participants of the Magdalene laundries Restorative Justice Scheme living abroad appear not to have been put in place. The Committee therefore requires information on the progress made in that respect.

The Committee notes that qualifying women must sign a waiver not to take proceedings against the State as a precondition for receiving benefits under the redress scheme, and requires clarification as to whether women who file a complaint pursuing a civil action against the institutions concerned or any individuals would not qualify for redress under the scheme.

The Committee notes that the redress scheme covers primarily women admitted at, and expected to work in Magdalene institutions, but regrets the lack of specific information on the situation of victims who were not formally admitted to the Magdalene laundries but were nonetheless forced to work there, including with regard to access to the redress scheme. The Committee therefore reiterates its request in that regard and also requires clarification as to whether this category of victims is covered under the Residential Institutions Redress Scheme.

The Committee welcomes the measures in place to assist, advise and support applicants to the redress scheme, including women with impaired mental capacity.

The Committee reiterates its recommendation that the State party ensure that victims, including victims of mother and baby homes, receive the full range of restitution, rehabilitation and measures of satisfaction to which they are entitled, in accordance with the Committee's recommendation.

Paragraph 11: Symphysiotomy

The State party should initiate a prompt, independent and thorough investigation into cases of symphysiotomy, prosecute and punish the perpetrators, including medical personnel, and provide the survivors of symphysiotomy with an effective remedy for the damage sustained, including fair and adequate compensation and rehabilitation, on an individualized basis. It should facilitate access to judicial remedies by victims opting for the ex gratia scheme, including allowing them to challenge the sums offered to them under the scheme.

Follow-up question (see CCPR/C/116/2)

[C1]: The Committee notes the commissioning of the Walsh and Murphy reports but requests information on measures taken after the adoption of the Committee's concluding observations regarding investigations into cases of symphysiotomy, as well as information on prosecutions and punishment of perpetrators. The Committee reiterates its recommendation.

[C1]: The Committee welcomes the establishment of the Surgical Symphysiotomy Payment Scheme, but requires additional information on the scope and requirements of the Scheme, including: (a) the assessment criteria for providing compensation to victims; (b) the requirement that participants waive all rights and entitlements to seek compensation outside of the Scheme and the lack of a right to appeal under the Scheme; (c) the time limit imposed on applicants (20 days), which may have hindered applicants with respect to seeking independent advice in making their decision and may affect women residing outside Ireland; and (d) the standards of proof required to seek damages under the Scheme.

Ireland

[C2]: The Committee reiterates its recommendation that the State party facilitate access to judicial remedies for victims opting for the ex gratia scheme, including by allowing them to challenge the sums offered to them under the scheme.

Summary of State party's reply

Investigations and reports on symphysiotomy

The State party repeats information from its first follow-up reply on the two independent investigations undertaken into the practice of symphysiotomy, on the Walsh and Murphy reports and on the establishment of the Symphysiotomy Payment Scheme and the assessment of applications by Justice Clark (see pp. 7-8). It notes that 578 applications were examined, and that Justice Clark commissioned independent medical experts to assist her in her assessment of applications where deemed necessary. The Scheme allowed for a much lower threshold of evidence than would have been required in a court of law. An offer of an award was made to every woman who met the criteria under the Scheme and the independent report under preparation by Justice Clark will form the basis of a third independent report on the pertinent issues relating to symphysiotomy.

Symphysiotomy Payment Scheme

(a) Assessment criteria require evidence of symphysiotomy in order for women to receive the minimum award of €50,000 and the maximum of €150,000. In the absence of medical records, medical experts examined the women to produce such evidence.

(b) The State party repeats information from its first follow-up reply that applicants did not waive their rights to take their cases to court as a precondition to participating in the Scheme and could opt out at any stage in the process, that discontinuation of any legal proceedings is required only if the award made under the Scheme is accepted (see p. 8), and that there are three levels of award under the ex gratia Scheme and no further appeal following the decision of the assessor (see p. 9); however, it was open to any woman to initiate a judicial review if she believed she had the grounds to challenge any aspect of the Scheme.

(c) The time limit of 20 days could be extended for a further 20 days in exceptional circumstances, and an application was valid even if all relevant supporting documentation was not provided at that time. Following the registration of the initial application, women were given a substantial number of months in some cases to seek advice and submit all relevant evidence. No reports of women who were unable to make the deadline were received; however, a small number of women opted not to apply to the Scheme.

(d) The burden of proof required was also lower than in a court of law, and the process was faster. At the same time, the Scheme did not prevent women who wished to pursue their case through the courts from doing so. Information on further disability allowed for the final award to be up to €150,000. Women who wished to be supported by their legal advisers could have such support, and the terms of the Scheme specified the funding that would be paid to legal advisers for that purpose. When a woman had little or no evidence to support her case, she met with the judge, who travelled around the country. In a small number of cases, a medical assessment was required to confirm that symphysiotomy had occurred and the level of subsequent disability. In some cases, evidence from the woman's general practitioner provided adequate support for her application, and in other cases the judge had a case conference with her medical expert team and the clinical expert in order to reach a fair consensus on the nature of disabilities involved.

Access to judicial remedies

Two of the three NGOs providing support to women reported that the majority of women who had been seeking to take their cases to the courts for years had welcomed the establishment of the Scheme. Each woman who had opted into the Scheme was clear

about the terms and had the option to reject her award and pursue her case through the courts. Only one woman rejected the award.

Committee's evaluation

[C]: The State party provided no information on measures taken after the adoption of the Committee's concluding observations regarding investigations into cases of symphysiotomy and prosecutions and punishment of perpetrators. The Committee reiterates its recommendation. It also requires updated information on the status of the independent report under preparation by Justice Clark and on the third independent report on pertinent issues relating to symphysiotomy.

(a), (c), (d) [A]: The Committee considers the State party's response largely satisfactory.

(b) [B]: The Committee notes that discontinuation of any legal proceedings is only required if the award made under the Symphysiotomy Payment Scheme is accepted by the woman, and requires information on the number of women who opted out from the Scheme and decided to pursue legal proceedings.

[C]: The Committee notes the information provided on the satisfaction of the majority of women with the establishment of the Scheme, but once again regrets that there is no possibility for women to challenge the payment offered under the Scheme either by appeal or judicial review. It therefore reiterates its recommendation in that regard.

Paragraph 15: Conditions of detention

The State party should step up its efforts to improve the living conditions and treatment of detainees and address overcrowding and the practice of "slopping out" as a matter of urgency in line with the Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977. It should establish a concrete timeline for the achievement of complete separation of remand and sentenced prisoners, juvenile and adult prisoners and detained immigrants and sentenced prisoners. It should also implement the new complaints model for all categories of complaints without further delay and ensure its independent functioning.

Follow-up question (see CCPR/C/116/2)

[B1]: (a) The Committee notes the efforts of the State party to address overcrowding and prison living conditions and requires information on the progress of those initiatives. The Committee also requires information on: (a) the number of inmates in each detention facility and the capacity of the facility; and (b) measures taken to address overcrowding in the Mountjoy, Cork and Limerick detention facilities.

[B1]: (b) The Committee notes the efforts of the State party to address the practice of slopping out and requires information on the progress of those initiatives, particularly in the Cork, Limerick and Portlaoise detention facilities.

[C1]: (c) The Committee reiterates its recommendation that the State party establish a concrete timeline for the achievement of complete separation of remand and sentenced prisoners, juvenile and adult prisoners and detained immigrants and sentenced prisoners.

[B2]: (d) The Committee notes the State party's intention to implement fully the complaints mechanism in 2015 and requests the State party to provide further information on implementation, including on the measures in place to ensure the independent functioning of the mechanism and the progress on any new legislative reforms.

Ireland

Summary of State party's reply

Overcrowding in prisons

The State party notes that on 18 May 2016 the prison population was 3,766 (5 per cent below the capacity recommended by the Inspector of Prisons) and provides a detailed breakdown of the prisoner population and capacity at each facility as at 18 May 2016 (see second follow-up reply, p. 11). It repeats information provided in its first follow-up reply on the elimination of overcrowding in Mountjoy Prison, the reduction of the number of prisoners accommodated in Cork and Limerick prisons (ibid.), and on the plans for redevelopment at Limerick Prison (p. 12). It adds that the new prison in Cork became operational on 12 February 2016 and has a capacity of 296 — an increase of 41 per cent over the old prison.

In-cell sanitation

Significant progress has been achieved in the elimination of the practice of slopping out in prisons. It has been eliminated at Mountjoy Prison, and all cells in the new prison in Cork have in-cell sanitation. Planning proposals for major developments to end the practice of slopping out at Portlaoise and Limerick Prisons are under way.

Segregation of prisoners

Every effort is made to separate remand prisoners from convicted prisoners, including by utilizing to the maximum the dedicated remand prison, Cloverhill Prison, with a capacity of 431. The State party reiterates the information it provided in its replies to the list of issues (see CCPR/C/IRL/Q/4/Add.1, para. 79) on the transfer of sentenced 17-year-old males to a dedicated unit in Wheatfield Place of Detention until they can be accommodated in the new children's detention facilities in Oberstown. Males aged 18 to 20 years who have been sentenced to detention are detained at a separate unit in Wheatfield. The State party also repeats information provided in its first follow-up reply on the Protocol between the Irish Prison Service and the National Police Service to ensure effective and timely processing of all prison committals due for deportation/removal (p. 13).

Prison complaints mechanisms

The State party repeats information provided in its replies to the list of issues (see CCPR/C/IRL/Q/4/Add.1, paras. 81-85) on the new complaints mechanism and adds that the Inspector of Prisons has recently submitted to the Minister for Justice and Equality his report on the operation of the present prisoner complaints policy and has made a number of recommendations, which are currently being examined.

Committee's evaluation

(a) [B]: The Committee welcomes the progress made in reducing overcrowding and the inauguration of the new prison in Cork. However, it notes from the data provided that prisoner population in Cork and Limerick prisons still exceeded prison capacity as at May 2016. The Committee therefore requires information on further measures taken to address overcrowding and on their impact. It also requires clarification of the current number of persons in custody and bed capacity of the old and new Cork facilities. The Committee reiterates its recommendation.

(b) [B]: The Committee welcomes that all cells in the new prison in Cork have in-cell sanitation, but requires specific information on the progress of proposed development projects aimed at eliminating sloping out at Portlaoise and Limerick Prisons.

Ireland

(c) [C]: The Committee notes that no information was provided on the establishment of a concrete timeline for the achievement of complete separation of remand and sentenced prisoners, juvenile and adult prisoners and detained immigrants and sentenced prisoners, and requires information in that regard, including on the transfer of sentenced 17-year-old males to the new children's detention facilities at Oberstown.

(d) [B]: The Committee reiterates its request for information on measures in place to ensure the independent functioning of the complaints mechanisms and requires information on the recommendations made in the report of the Inspector of Prisons on the complaints policy submitted to the Minister for Justice and Equality and on the follow-up thereto.

Recommended action: A letter should be sent reflecting the evaluation of the Committee.

Next periodic report: 31 July 2019

113th session (March 2015)

Russian Federation

Concluding observations:	CCPR/C/RUS/CO/7, 31 March 2015
Follow-up paragraphs:	7, 19 and 22
First reply:	CCPR/C/RUS/CO/7/Add.1, 29 March 2016
Committee's evaluation:	Additional information required on paragraphs 7 **[C] [C]**, 19 **[B] [C] [C] [C] [C] [C]** and 22 **[C] [C]**

Paragraph 7: Accountability for alleged human rights violations committed in the North Caucasus federal area

The State party should:

(a) Ensure that all human rights violations committed during security and counter-terrorism operations in the North Caucasus federal area are thoroughly, effectively, independently and impartially investigated, that perpetrators are prosecuted and sanctioned in a manner commensurate with the gravity of the acts committed, and that victims or their families are provided with effective remedies, including equal and effective access to justice and reparations;

(b) Immediately end the practice of collective punishment of relatives and suspected supporters of alleged terrorists, and provide effective remedies to victims for violations of their rights, including for damage or destruction of property and forced expulsion.

Summary of State party's reply

(a) The State party elaborates on the procedure for the investigation of criminal cases involving the death or abduction of residents of Chechnya in the course of counter-terrorism operations, noting that victims are supplied with all the information necessary relating to the main investigative actions, including copies of procedural documents, and are given the opportunity to familiarize themselves with the criminal case files. The operational units and the investigating agency work together on solving historical offences.

(b) There is no collective punishment of the relatives and suspected supporters of alleged terrorists. The protection of individuals is ensured through a combination of security measures and investigative activities that are pre-emptive in nature. In total, 119 security measures were applied in 2015 regarding 66 individuals.

Committee's evaluation

(a) [C]: The Committee notes the information provided by the State party, but requires further and specific information on measures taken since the concluding observations were adopted, including the number of investigations initiated, prosecutions conducted, convictions secured and the punishments imposed for serious human rights violations committed in the North Caucasus federal area, including unlawful and extrajudicial killings, abductions, torture and ill-treatment, secret detention and enforced disappearance and on reparations granted to victims of their family, including equal and effective access to justice since the concluding observations were adopted. The Committee reiterates its recommendation.

(b) [C]: The Committee regrets that the State party continues to deny that collective punishment of relatives and suspected supporters of alleged terrorists have taken place in the past, and that it provided no information on the remedies granted to victims of such violations, including for damage or destruction of property and forced expulsions from Chechnya. The Committee reiterates its recommendation.

Paragraph 19: Freedom of expression

The State party should consider decriminalizing defamation and, in any case, it should countenance the application of criminal law only in the most serious of cases, bearing in mind that imprisonment is never an appropriate penalty for defamation. It should repeal or revise the other laws mentioned above[4] with a view to bringing them into conformity with its obligations under the Covenant, taking into account the Committee's general comment No. 34 (2011) on freedoms of opinion and expression. In particular, it should clarify the vague, broad and open-ended definition of key terms in these laws and ensure that they are not used as tools to curtail freedom of expression beyond the narrow restrictions permitted in article 19 of the Covenant.

Summary of State party's reply

(a) The State party notes that the right to freedom of expression under article 19 of the Covenant is not absolute and is subject to certain restrictions as set out in paragraph 3, and reiterates (see CCPR/C/RUS/Q/7/Add.1, para. 139) that the Russian legislature is entitled to choose for itself how it wishes to combat unlawful acts such as defamation, which may include criminalizing it. The addition in the Criminal Code of article 128.1, which criminalizes defamation, complies fully with the State obligations under the Covenant. Furthermore, defamation is a punishable offence in a number of European countries, including Austria, Denmark, Germany and Sweden. Between 2013 and mid-2015, persons convicted under article 128.1 received fines, not custodial sentences. The provisions on defamation cannot, therefore, be deemed to restrict freedom of expression or run counter to the Covenant.

(b) Federal Act No. 190-FZ of November 2012 clarifies the wording of article 275 of the Criminal Code. The amended text aims at improving criminal legislation relating to the protection of State secrets from criminal attacks and ensures the security of State more effectively. The reform was needed to correct the vague definition of one form of treason. The State party reiterates the definition of high treason under article 275 of the Criminal Code, including as provision of financial, material, technical, consultative or

[4] See paragraph 19 of the concluding observations, in which the Committee expressed its concern about: (a) the re-criminalization of defamation in 2011; (b) Federal Law No. 190-FZ of November 2012 expanding the definition of treason; (c) Federal Law No. 136-FZ ("blasphemy law") of June 2013; (d) Federal Law No. 398-FZ authorizing prosecutors to issue emergency orders to block any website containing, inter alia, calls to participate in "public events held in violation of the established order" or "extremist" or "terrorist" activities; (e) the law criminalizing, inter alia, distortion of the role of the Soviet Union in the Second World War, signed 5 May 2014; (f) the law regulating the activities of blogs, signed 5 May 2014.

other assistance to a foreign State or an international or foreign organization or representatives thereof in carrying out activities that pose a threat to the security of the Russian Federation, and explains that the person is exempted from criminal responsibility for certain offences against the constitutional order and State security if he or she facilitates the prevention of further damage to the interests of the State.

(c) Under article 28 of the Constitution, everyone is guaranteed freedom of conscience and religion. Federal Act No. 136-FZ of 29 June 2013 regarding blasphemy amends article 148 of the Criminal Code and other legislative acts to address legal gaps relating to the liability of persons who insult the religious beliefs of Russian citizens. The State party elaborates on the content of each paragraph of article 148 and clarifies that the offence consists of a public action that is committed openly and in plain sight, can be witnessed by others, expresses clear disrespect for society and is intended to insult the religious feeling of believers, or the unlawful obstruction of the activities of religious organizations or the performance of religious rites. The State party reiterates information from the replies to the list of issues (see CCPR/C/RUS/Q/7/Add.1, para. 141) that most foreign countries apply a similar legal instrument to protect the right to freedom of religion.

(e) The State party provides detailed information on the prohibitions introduced by the Federal Act No. 574-FZ of 4 November 2014 regarding, inter alia, the use of any form of Nazi symbol, and indicates that, pursuant to Federal Act No. 128-FZ of 5 May 2014, the Criminal Code was supplemented with article 354.1 (rehabilitation of Nazism). Paragraph 1 of that article criminalizes, inter alia, the denial of the facts established by the judgment of the Nuremberg Tribunal and the dissemination of deliberately false statements concerning the actions of the Union of Soviet Socialist Republics during the Second World War. The State party notes that the reassessment of the decisions of the Nuremberg Tribunal in the form of an approval of the aggressive policy of Nazism, the denial of the facts of Nazi crimes in the occupied territories or description of the actions of the anti-Hitler coalition to resist the aggressor as criminal are international crimes; this follows from article 107 of the Charter of the United Nations.

With regard to the recommendation to clarify the "vague, broad and open-ended definition of key terms", definitions of that nature are not permitted in the national legislation, therefore the inference that the provisions of Russian criminal legislation do not comply with the State's obligations under the Covenant is not an accurate reflection of the situation.

Committee's evaluation

(a) [B]: Committee notes the information provided and welcomes the absence of any custodial sentences for defamation between 2013 and mid-2015, but regrets that the State party does not appear to have considered decriminalizing defamation. Updated information is required on the number of prosecutions and convictions under article 128.1 of the Criminal Code since the concluding observations were issued, including imprisonment as a sanction. The Committee reiterates its recommendation.

(b) [C]: The Committee notes the information provided by the State party but regrets that no measures appear to have been taken to implement its recommendation. It requires information on steps taken since the adoption of the concluding observations to bring the definition of treason into conformity with article 19 of the Covenant. The Committee reiterates its recommendation.

(c) [C]: The Committee regrets that no measures appear to have been taken to repeal blasphemy laws. It requires information on the number of prosecutions and convictions under article 148 of the Criminal Code and clarification on whether the State party plans to repeal blasphemy laws, taking into account its general comment No. 34 (para. 48), concerning the incompatibility of blasphemy laws with the Covenant, except in the specific circumstances envisaged in article 20 (2) of the Covenant. The Committee reiterates its recommendation.

(d) [C]: The Committee regrets that no information has been provided on Federal Law No. 398-FZ authorizing prosecutors to issue emergency orders, without a court decision, to block any website. The Committee reiterates its recommendation.

(e) [C]: The Committee appreciates the information provided on the prohibitions introduced by Federal Act No. 574-FZ of 4 November 2014 and the incorporation of article 354.1 (rehabilitation of Nazism) in the Criminal Code, but regrets the lack of information on the compatibility with article 19 of the Covenant of the provisions of article 354.1 (1) of the Criminal Code that criminalize, inter alia, the dissemination of deliberately false statements concerning the actions of the Union of Soviet Socialist Republics during the Second World War. The Committee therefore requires information on, inter alia, the necessity and proportionality of those restrictions in the light of article 19 (3) of the Covenant, on prosecutions and convictions for violations of those provisions and on sanctions imposed on perpetrators since the adoption of the concluding observations.

(f) [C]: The Committee regrets the absence of information on the law regulating the activities of blogs, signed by the President on 5 May 2014. The Committee reiterates its recommendations.

Paragraph 22: Freedom of association

The State party should repeal or revise the legislation requiring non-commercial organizations that receive foreign funding to register as "foreign agents" with a view to bringing it into line with the State party's obligations under the Covenant, and take into account the opinion of the European Commission for Democracy through Law in that regard. It should, at the very least: (a) drop the term "foreign agent" from the law; (b) clarify the broad definition of "political activities"; (c) remove the power granted under the law of registering non-commercial organizations without their consent; and (d) revisit the procedural requirements and sanctions applicable under the law to ensure their necessity and proportionality.

Summary of State party's reply

The State party elaborates on the meaning of Federal Act No. 121-FZ of 20 July 2012, requiring non-commercial organizations that receive foreign funding to register as "foreign agents" and on the grounds for removal from the register and the procedure thereof. It notes that, as at 26 January 2016, 20 non-commercial organizations performing the functions of foreign agents had submitted applications for removal from the register 7 applications had been granted, 7 rejected and the remaining were pending. Organizations may contest a negative decision in court, which has been the case for one organization. Organizations can also reapply to be removed from the register a second time. There is therefore no evidence that the current removal procedure is complex.

In order to clarify the concept of "political activity", the Ministry of Justice has prepared a draft federal act, according to which political activity takes place in areas such as nation-building and the federal system; sovereignty and territorial integrity; the rule of law, public order and security; national defence; foreign policy; the integrity and stability of the political system; the socioeconomic and national development and operation of State authorities and local government bodies; and the regulation of civil and human rights and freedoms. The clarifications will facilitate the elaboration of clear and comprehensive criteria for defining political activity and ensuring the uniformity of legislative and regulatory compliance practices. The draft law will also set out the possible forms that political activity may take.

Russian Federation

With regard to the Committee's observation relating to the "ban on undesirable foreign companies, organizations or groups", Federal Act No. 129-FZ of 23 May 2015 entered into force on 3 June 2015 with the main objective of protecting State security in relation to the activities of foreign and international organizations. The Act contains an exhaustive list of grounds for the recognition of an organization as being undesirable, which are based on threats to the constitutional order, national defence or State security, and complies fully with the Covenant, which allows for the restriction of certain rights, including for the purposes of protecting State security and public order. Decisions under the Act are taken by the Procurator-General or his or her deputy, and the list of undesirable foreign or international NGOs is published on the official website of the Ministry of Justice and in a periodical with a national circulation. The absence of an established procedure for appealing against the decisions relating to the recognition of organizations is due to the very nature of the Act: it does not aim at the self- regulation of a specific area of social relations but simply amends certain laws. Decisions can, however, be contested according to the legally established procedure as set out in the Civil Code, the Code of Civil Procedure, the Code of Commercial Procedure and the Act on Actions and Decisions Infringing Civil Rights and Freedoms (Court Appeals).

Committee's evaluation

[C]: The Committee appreciates the information regarding applications for removal of non-commercial organizations from the foreign agents register and notes that initial steps have been taken to define "political activity" in the Act on Non-Commercial Organizations by way of a draft federal act. However, the Committee remains concerned that, as described, the draft does not clarify or narrow the concept of political activity in a manner that would ensure consistency with the Covenant. It requires specific information on the definition of "political activity" contained in the draft under consideration, the possible forms that political activity may take and how those satisfy the requirements of article 19 (3), and on whether the draft federal act has been submitted for discussion and adoption and on the progress of its adoption. Furthermore, information is required on other measures taken to bring the Act on Non-Commercial Organizations into conformity with the Covenant, including clarifications on whether the term "foreign agent" and the power of registering non-commercial organizations as "foreign agents" without their consent or a court decision will be removed from the law and whether the procedural requirements and sanctions applicable under the law will be revisited to ensure their necessity and proportionality. The Committee reiterates its recommendation.

[C]: The Committee regrets that, despite the concerns expressed about its adverse human rights implications, the draft law banning undesirable foreign companies, organizations or groups was signed into law (Federal Act No. 129-FZ) and entered into force. The Committee requires information on the compatibility of the Act with the requirements of article 19 (3) of the Covenant.

Recommended action: A letter should be sent reflecting the evaluation of the Committee.

Next periodic report: 2 April 2019